PLANNING: THE FIRST CRITICAL STEP

It’s easy to procrastinate planning for the long term, but inevitably a crisis will catch everyone off-guard. This is a common scenario: You get the middle-of-the-night phone call that your parent is seriously ill, but you and your siblings aren’t sure whether your parent has made plans for his or her care and long-term needs. Each sibling has a different idea about how to proceed. Communication breaks down due to heightened tension as everyone pursues his or her own agenda.

Turmoil and mistakes could have been avoided with planning, but these are difficult conversations for families. Often, the focus is on money, a topic fraught with emotion. Sibling rivalry and resentments can interfere with setting priorities. Responsibilities need to be divided fairly, but fairness is often a matter of opinion. It may be hard, uncomfortable work, but once a plan to carry out parental wishes is in place, the family can rest easier. Frank talks about planning for the future financial, medical and other needs of your loved ones are among the most important conversations a family can have.

RESEARCH SHOWS DISAGREEMENT ON WHEN TO START

Healthcare advances mean many of us are experiencing new family dynamics. More and more people in their 50s, and even 60s, are approaching retirement age with a parent, or both parents, alive and in their 80s or 90s. Almost invariably, parents want to stay independent for as long as possible and avoid becoming a burden on the family. The adult children need information to make sure their parents’ wishes are understood and carried out. Yet, at the same time, the mere act of asking the questions can make parents feel like they are losing control.

A study released last year by Fidelity Investments revealed a wide gap between parents and their adult children on such issues. Four out of 10 families disagreed on the roles adult children will play as their parents age, whether that might be caregiver, executor of their parents’ estate, or day-to-day financial manager. Some 67 percent of those who were surveyed disagreed about when it is appropriate to start these conversations.

Most advisors agree it’s best to start before problems begin. A recent study by the University of Alabama identified five signs that aging is affecting someone’s ability to make financial decisions. They include taking longer to complete everyday financial tasks, missing key details in financial documents, having difficulty with simple math, showing decreased understanding of financial concepts, and having difficulty identifying the risks in an investment opportunity.

Sources: 1. Fidelity “Family Finance Study” 2016; 2. University of Alabama “Financial Decisions as We Age” NEFE Digest 2016
A MEASURED, CONSCIENTIOUS APPROACH

Ideally, these conversations should not happen just once, because the issues are often too complex to resolve in one meeting. Families need to be flexible as circumstances and situations change. What is most important is that you open the dialogue. Often, it pays to bring in an outside eldercare advisor who can help mediate family discussions to reduce or eliminate conflict. This frees family members to work together to determine the amount of planning already in place, consider how to divide caregiving responsibilities, and address inheritance issues. “This type of measured and conscientious approach becomes virtually impossible if left to the last minute. Further, once an elder begins to suffer from conditions which diminish his or her legal capacity, it may be too late to change an estate plan or otherwise remain financially self-determined. Let’s agree – no one wants to have such important decisions ‘made for them’,” says Marie DelRossi, a Senior Wealth Strategist at Boston Private.

Talking about matters before an emergency happens makes it more likely that everyone will agree, or at the very least minimizes the likelihood of full-blown disputes. This gives everyone the ability to anticipate issues, make more informed decisions, and feel like they had a say in the process.

PULLING THE FAMILY MEETING TOGETHER

Agreeing to meet is the first hurdle. People who don’t have siblings or other close family must consider these same issues, but they don’t have to find a way to make a group conversation work for everyone. Depending on how many siblings, step-siblings, and other interested adults are involved, planning the initial “Talk” can be tricky. Holidays offer the opportunity, but of course holidays add a certain element of stress all on their own.

What is clear, though, is that advisors recommend setting up a few family meetings, either on neutral turf or at someone’s home, or in an advisor’s office. Remember to include all the people who will be part of the family plan. If logistics prevent meeting in person, technology can be brought into play. If the parents are able and willing, they should also be part of the discussions, as long as the parties take care that the situation doesn’t become confrontational. Everyone who believes he or she should participate should be able to do so.

The first meeting should determine how much planning has been done already. If it doesn’t include the parent or parents, family members should take turns sharing what they know.

Individually, they might have different or conflicting information; however, putting it all out in the open can piece together the overall picture. A report prepared in advance by a doctor, eldercare worker or advisor, which is then distributed to those present at the meeting, could be useful in keeping everyone on topic.

Setting an agenda for the first meeting and sticking with it can help keep the conversation from veering off track. Everyone should get a chance to speak without interruption. “It is precisely at this point that a neutral third party with expertise in geriatric issues can really make a difference. A professional can make sure every voice is heard, not just the most dominant one,” DelRossi says.

DIVIDING THE ROLES AMONG FAMILY

When taking care of an aging parent, families should consider the parent’s needs and wishes and the adult children’s abilities and willingness to do the caretaking.

Overcome sibling rivalries and resentments to achieve harmony. The person who lives closest to the parent often becomes the day-to-day caretaker, but this role may not be sustainable in the long term. Adult children may arrange a rotating schedule of roles or compensate someone who is taking on daily duties.

Some formal legal roles are often divided among family members:

- **Personal Representative**: Oversees settlement of an estate, including division of property and assets specified in the will. This time-consuming job requires some financial know-how. The personal representative collects the assets, pays final bills and funeral expenses, files taxes, and submits court documents. A lawyer may assist with the process if a family member is not designated.

- **Healthcare Proxy**: Provides legal power to make healthcare decisions for someone in the event of incapacitation. An advance healthcare directive or living will spelling out healthcare wishes may incorporate or accompany this document.

- **Power of Attorney**: Provides the ability to make legal decisions and take action on someone’s behalf. The power may be broad or limited to particular assets. A durable power of attorney is in effect while a person is incapacitated, but must be designated while the person has control of his or her mental capacity.

Agenda items could include a rundown of the current state of affairs, steps that need to be taken to resolve open issues, and a discussion about any new concerns or problems. Building an effective and practical plan means talking through a number of issues, including healthcare needs, day-to-day care, longer-term estate planning issues, philanthropic goals, business succession planning, and lifetime gifting and support for younger family members. An array of experts can advise on these issues (see sidebar).

A large part of the agenda will concern who takes on what role, and when. A common problem facing families is the tension between proximity and resources. Inevitably, one sibling will end up taking on more of the hands-on daily care because he or she lives closer to the parents or has a closer relationship with them. This can lead to resentment. It could seem siblings who live out of town or have commitments that prevent them from participating—or those who just simply choose not to participate—have been left out or let off the hook.

ASSIGNING ROLES

Some family members might be more aware than others that the parents are starting to slow down and need more help. Others may be shocked or in denial about it. Some bygones are going to have to be left bygones. The old assumptions siblings have about each other will need to make way for what is practical and best for now. For example, the oldest isn’t necessarily the person best equipped to take on the caregiving role, or the youngest may have more financial resources to pitch in.

Family members who feel burdened by these imbalances might believe they should get a bigger part of the inheritance, while those who aren’t as actively involved in the day-to-day management of an aging family member’s needs might believe the caretaker is spending too much on the parent’s care. Advisors say families should designate someone to take the lead in the daily caretaking and divvy up the other responsibilities—taking care of the day-to-day finances, taking on power of attorney, agreeing to ultimately act as executor of the estate, etc. The family might even agree to hire a life advocate or geriatric care manager to take on the role of coordinating care, or otherwise find an assisted living or nursing home facility that is suitable and that all can agree upon. Family members who take on other roles, such as the person with the power of attorney over financial decisions, should keep records and send periodic reports to the other family members to keep everyone informed.

WHO CAN HELP?

- **Financial Advisor**
  Organizes financial affairs, analyzes investments, and makes recommendations for investment strategies aligned with financial objectives and goals.

- **Accountant**
  Handles annual personal and business tax filings, and works to reduce or eliminate taxes in the transfer of assets.

- **Estate Planning Attorney**
  Ensures plans for asset distribution are carried out efficiently, reducing taxes and other costs and avoiding prolonged review by probate court. Provides legal opinions on setting up trusts and powers of attorney to help plan for potential incapacity.

- **Attorneys in Fact (Power of Attorney)**
  Acts as designated authority over your finances or healthcare if you are unable to make decisions for yourself.

- **Personal Representative (Formerly Executor or Executrix)**
  Pays final bills, files taxes, communicates with courts, and ensures assets are distributed according to the will.

- **Trustee**
  Monitors trust and ensures it is carried out according to established wishes.

- **Guardian**
  Assumes responsibility for caretaking of minor children or an adult child with disabilities.
WHEN A PRIVATELY HELD FAMILY BUSINESS IS INVOLVED

Particular complications can arise when a family business is central to the discussions. If younger generations aren’t interested in or capable of taking over management responsibilities, consideration may turn toward selling the business. A potential transfer of a family business will certainly bring complex estate planning issues to the forefront. Should “Control” and “Ownership” stay within the family? Perhaps some of each could be transferred to existing employees or newly introduced stakeholders.

Preferably, the fate of a family owned business would be planned over a period of years to assure a smooth transition and minimize risk. Founders may often pass on a business to solely those family members who are actively involved in its operations. This can raise questions about equality vs. equity, or in other words, considerations of what is fair vs. what is equal. Family members who aren’t given the keys to the business might feel they should be compensated with money or other property. Whatever the circumstances, a qualified appraisal of the business should be obtained. Without an accurate and agreed-upon valuation, equalizing distributions of non-business property will be impossible.

In sum, families that delay these types of long-term planning conversations run the risk of being forced to scramble to put plans in place after a health crisis or financial crisis is already underway. This can lead to costly mistakes, loss of control and faulty decision making. Even a discussion as simple as sharing where to look for important documents and passwords can relieve loads of stress on families in crisis.

Whatever agreement family members come to, a key goal should be ensuring the parents’ wishes are carried out as faithfully as possible. As much as one might want to change such wishes, in the end, adult children have to accept what those wishes are. Starting the conversation about it early and talking about it often will help manage everyone’s expectations and promote harmony during difficult times.